

**Zoning Board of Adjustment Public Hearing
Richmond Pavilion**

July 15, 2020

7:00 PM

Members Present

Alan Schmidt,
Mark Beauregard
Lloyd Condon
Antoinette Cincotta

Members Absent

Larry Richardson, Vice Chairman
Jean Tandy, Alt.

Public: Kevin Fadden, Kevin Delany, Rick Voci, Christopher Hamilton, Jeff Taylor, Susan Taylor, Amanda Grinstead, David Mazzola, Mike Haiton, Betty Buzzell

1.Meeting called to order/roll call:

Alan Schmidt seated to Chair the hearing in Larry Richardson's absence.
Meeting called to order at 7:05 PM. Public Hearing called to order @ 7:05 PM.

2.Map 407 Lot 95, Special Exception:

Public posting inside and outside of the Richmond Town Hall June 30,2020
Public announcement legal section Keene Sentinel July 2, 2020.
Abutter Certified mailing non return receipt and surrounding towns July 2, 2020.

Schmidt gave a briefing on how the hearing would be run to assure there was order and everyone had a chance to speak for and against the application.

Schmidt asked for the applicant to come forward and present the application to the Zoning Board of Adjustment and public.

Kevin Fadden from Industrial Tower and Wireless LLC (ITW) located on 40 Long Street, Marshfield Massachusetts present the proposed Special Exception.

The proposed application is for a Special Exception from Article 3 General Provisions, more specifically Section 312 for a 175' foot lattice cell tower. Map 407 Lot 95 is owned by Jeffrey and Susan Taylor, 323 Fitzwilliam Road, Richmond, NH. The parcel is 25.4 acres and is presently used as a Christmas Tree Farm.

The proposed cell tower is permitted by Special Exception in Richmond Zoning Ordinances under Article 3, Section 312 and Article 4, under 404 more specifically 404.1. The application is consistent and supported with the Richmond 2010 Master Plan, Section VI, page 8, Public Police and Fire, page 9, Communications, page 31 and Recommendations, page 32.

The location of the proposed tower will be 1500' feet off of Rt. 119 (Fitzwilliam Rd.) and 925' feet from the nearest home. There is an existing gravel drive that will be used as the access driveway for the compound so there will be no noticeable difference traveling by the property. The tower compound will be 80 X 80 with a chain link security fence, and space for five (5) personal wireless service shelters on concrete pads with

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communications equipment, and additional supporting infrastructure. The tower will have no lights, the height is below the required height by the Federal Aviation Administration. With the height and canopy of trees and the lattice design the tower will not be seen when traveling by.

The cell tower will be used as a co-location for larger towers around the area to bring service to connect coverage through the eastern and middle portions of Richmond. The tower will cover approximately 4.0 miles south to north along rt. 32 and 3.7 miles east and west along Rt. 119.

At this time Schmidt opened the hearing to the board for questions.

Schmidt asked if the Town of Richmond would have the right to add communications equipment to the tower for Fire and Police Department? Fadden said yes, the town will have to buy and install the equipment but the space would be free to the town.

Condon asked if there are five antennas spread 10' feet apart would the lower antennas have the power they need? Fadden said the antennas would start at 135', 145', 155', 165, and 175' the lowest antenna would be able to have full service.

Cincotta informed the Zoning Board of a lawsuit that involved a cell tower several years ago in the Town. Condon told her that was way before we had zoning in place for cell towers and didn't pertain.

Cincotta asked where the business agreement and authorization was in the packet? Fadden said that the business agreement is private and not for the public. The authorization is in the packet from the landowner to Fadden for representation through the process.

Schmidt explained to Cincotta that the Zoning Board has a very narrow purview of the application. The job of the ZBA is to look at the information, criteria and make an informed decision. That there would be a Site Plan addressing roads and other items through the Planning Board further on if this was approved.

Cincotta drew attention to Article 4: Residential District, under 404 Permitted Accessory more specifically 404.1 the zoning did not list cell towers as a permitted use. Uses permitted were garages, barns, sheds, swimming pools. She also referred to Article 4: Residential District under 402 Permitted Uses more specifically 402.1 Single-family dwellings, it was Cincotta's opinion that there was a single-family dwelling on the property and that the cell tower would be a second dwelling therefore it could not be built according to our Zoning Ordinances. The cell tower needed its own piece of property to build on.

Mattson explained to Cincotta that Article 4 under 401 pertains to private property owners, cottage industries and accessory dwellings which are small apartments. Under Article 3: General Provisions, more specifically 312 it is allowed with a Special Exception in the Residential District. This allows the applicant to go directly to the ZBA for actions under Article 11: Board of Adjustment for a Special Exception.

Cincotta continued on the floor and asked about the access road? The width presently and the width when ITW is done. Fadden said that presently the gravel road width varies between 10'-11' feet it would be widened in to 12' feet. There are a few corners that will be enlarged to allow for a 100' foot turning radius to get the crane on site.

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Cincotta asked about the telephone poles? Fadden explained that the power would come directly from Rt. 119 and would be poles for a distance but near the end would be buried underground. No additional poles will be seen from Rt. 119 due to the location, terrain and the height of the trees.

After all questions from the board were answered Schmidt opened the floor up to the public.

Amanda Grinstead thought it was slimy for a large company like ITW to decide to pick a small town like Richmond to build a cell tower. She also asked the board how the hearing was noticed. Mattson explained that the hearing was noticed according to the State of NH RSA. Amanda feels if more people knew about the hearing they would have been here.

Cincotta asked if the cell tower would be 4G or 5G. Fadden said it would start off as 4G but would eventually change to 5G. Cincotta asked about the health effects of the 5G.

Kevin Delaney from ITW asked to take the floor to answer questions and was acknowledged. Delaney explained that there are many studies and reports that had been filed and many are approved. Environmental Impact study for NHDES, Federal Communication Commission (FCC) study, Historic studies, Endangers species study, Federal Aviation Association approval. Presently the cell tower meets all FCC approvals. Delany offered to supply an extensive study done by the FCC in reference to the health effects of the 4G and 5G. The study was conducted and medical experts weighed in on the data.

Amanda Grinstead had concerns that the 5G effects on people around it were not good, the 5G has been known to cause health problems and hurt eyes even at long distances. It seemed slimy to allow this company to slide this through and allow them to provide the information on the effects of a 5G network. It seemed like a conspiracy.

The board asked Delaney to supply the FCC data and the board would do research.

Christopher Hamilton abutter (map 407 lot 094) was acknowledged to take the floor. Hamilton told the board he had a letter for the board and that he and his wife have been residents of Richmond for 14 years. They are very cautious with the Covid 19 virus and they received their certified letter on Friday July 10, 2020. Mattson explained that the Hamilton's have a PO Box in Fitzwilliam. According to Ann Hamilton who spoke with Mattson on Friday the July 10, 2020 they received a notice in their PO Box on July 3, 2020 that there was a certified letter to be picked up. With Covid they didn't sign for the certified mailing until July 10, 2020. Hamilton went on to say that he didn't have time to prepare for the meeting. Hamilton wanted the Board to have a complete adjournment of the hearing.

Schmidt said that the hearing could not be completely adjourned. That mailings and postings have been paid for and an adjournment wasn't possible.

Cincotta took the floor and said that Hamilton needed more time to address the board. That with the tardiness of the mailing and the hearing not being posted on the website he had no time to prepare.

Mattson acknowledged that the town website is usually not up to date. She suggested that we could continue the meeting to give Hamilton some time and to receive the health effects study from IWT.

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It was discussed to continue the hearing until the next scheduled meeting on August 12, 2020 to give the Hamilton's more time.

Cincotta said that 30 days wasn't enough. If Hamilton was going to team up with a lawyer, he needed 6-9 months. That the applicant had 9 months and the Hamilton's needed at least that amount of time. That the Hamilton's were in titled to due process and 30 days was not sufficient. Mattson explained to Hamilton that if in 30 days he needed more time he could come back to the board and ask for more time.

Jeff Taylor (landowner) asked to take the floor, he said that he and the tower company have a right to due process as well. First, this was derailed due to Covid 19 and they have waited a long time to come before the board. He explained that he and his wife Susan have a Christmas Tree Farm and have always kept the property as natural as possible. They have tried hard not to take away from the trees and forest. When they were approached by the Cell company they thought long and hard about entering into an agreement. Their decision was made on how residents of our town could benefit from having this service come to town. People park at the end of his driveway to get cell service and it would improve connections in the case of an emergency.

Hamilton asked for a total adjournment and said that the closest house was probably his home. He was asked to identify his property on the map provided by ITW. After, looking at the larger map it did not show his property.

Cincotta said it wasn't due process to give the cell company 9 month and Hamilton 30 days. Cincotta felt the board wasn't using good judgement and Hamilton needed more notice and the opportunity to be heard.

Motion made by Lloyd Condon to continue the Public Hearing to August 12, 2020 at 7:00 PM located at the Richmond Pavilion. Seconded by Mark Beauregard. Three in favor. One opposed. Motion carries.

Public hearing continued at 8:20 PM.

3.Map 408 Lot 79 (Variance)

Public Hearing opened at 8:30 PM.

Public posting inside and outside of the Richmond Town Hall June 30, 2020

Public announcement legal section Keene Sentinel July 2, 2020

Abutter certified mailing no return receipt July 2, 2020

The application is for a proposed Variance from Article 4:Residential Zone: Under 405 Lot Frontage and Yard Requirements, more specifically 405.2. Frontage. The property is owned by Doug and Mary Mallet located at 179 Old Homestead Hwy. Richmond NH, consisting of 3.13 acres. Doug and Mary Mallet would like to erect a 22 X 24 medal garage within the State of NH Rt. 32 setback. Setback is 50' feet from the edge of the public right-of -way and the Mallets have 42' feet.

Mallet explained that in 2017 he applied for a building permit and the Richmond Zoning Compliance Officer came out and measured the distance from the centerline of Rt. 31 and received his building permit. Due to unforeseen circumstances the Mullet's were not able to build the garage that year and the building permit lapsed. When he returned in 2020 for a building permit it was denied. For the setback to Rt. 32. The Selectmen came out measured from the inside of the stonewall and he was 8' feet short.

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The garage is for personnel use and would house vehicles and farm equipment including orchard ladders and apple crates. Due to the lay of his land with the back dropping off there really is no other place to put the garage. Both the front of the garage and the present home would be equally in the setback.

After a brief discussion the consensus of the Zoning Board members was to schedule a site walk.

Motion made by Schmidt to continue the Public Hearing and schedule a site walk for Thursday July 16, 2020 at 5:30 PM located on site. Seconded by Antionette Cincotta. All in favor. None opposed. Motion carries.

Public Hearing was continued until July 16, 2020 @ 5:30 PM located at 194 Old Homestead Hwy.

It was decided to park on the edge of Granit Hill Road due to the space restraints in Mr. Mallets driveway.

4.Minutes January 8, 2020:

5.Election of Officers:

Due to the sudden chill and bugs the Board members had a discussion and decided to table both the minutes of January 8, 2020 and the Election of Officers until their meeting on August 12, 2020 at 7:00 PM located behind the Fire Department at the Richmond Pavilion.

Zoning and State Land Use Books 2020:

Updated Richmond Zoning Ordinances and State of NH Land Use Books 2019-2020 Edition were handed out to all board members present.

6.Other:

No other.

With no further business in front of the board:

Motion made by Lloyd Condon to adjourn the meeting. Seconded by Mark Beauregard. All in favor. None opposed. Motion carries.

Meeting adjourned at 8:40 PM.

Respectfully Submitted,

Kandace Mattson